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| 10/650,176 | 08/28/2003 | Jeffrey C. Fuller | 30835/302629 | 5959 |

45373 7590 06/07/2007

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| EXAMINER |
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SEYE, ABDOU K

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| ART UNIT | PAPER NUMBER |
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2194

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| MAIL DATE | DELIVERY MODE |
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06/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/650,176

Applicant(s)

FULLER, JEFFREY C.

Examiner

Abdou Karim Seye

Art Unit

2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

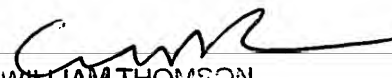
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


WILLIAM THOMSON
ADVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Claims 1, 10 and 19: Applicant argues that "Kush does not disclose or describe a system where the decision on whether to boost a priority of the application thread is made based on the status of I/O operation performed for the application thread". The examiner disagree since, Kush describes the mutex as an element insuring that two threads do not concurrently access the same shared resource performing a read and write operation; and priority inheritance where lower priority thread holding the mutex has its priority adjusted to higher priority of the thread when the lower priority thread executing at the higher priority is still running (col. 1, lines 55-67 and col. 2, lines 18-28). Therefore, based on the read and write operation being performed, the priority of the thread holding the mutex is always adjusted to higher priority. These elements of Kush's reference meet the claimed limitation of the claim. Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

Claim 2, 11 and 21 : Applicant argues the claimed element "determining again whether to boost the priority of the application" as "the method does not repeat". The examiner disagree since, in (Fig. 9) a request to boost priority on a thread is made ; a list is of the running thread maintained; and checking is done whether there is a boost request against the thread. The steps described in (FIG 4-6) of Kush's reference clearly disclose this limitation. Therefore, the logic for "determining again whether to boost the priority of the application thread" is taught by Kush. These elements of Kush's reference meet the claimed limitation of the claim. Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

Claims 3, 12 and 22 : Applicant argues that "Kush does not teach I/O data". The examiner disagree since, Kush discloses in col. 5, lines 50-55 a kernel extension 30 including a "memory pools" that are well known in the art as elements for temporary data storage . Therefore this claimed element of Kush's reference meets the claimed limitation of the claim.

As per claims 4, 13 and 23, see arguments as presented above.

As per claim 5, 14, 6, 15 and 23 : applicant did not present argument why these claim are not anticipated by Kush. Therefore, the examiner disagrees. See rejection in the final office action.

As per claims 9, 18 and 26: Applicant argues that "there is no mention of time and no mention of a threshold length of time in Kush reference". The examiner disagree since, Kush discussed the association of CPU time and higher priority on threads in (col. 1, lines 55-65); and priority of the calling thread exceeding the priority of a located boost request; threshold in (col. 8, lines 5-25). Therefore, these elements of Kush's reference meet the claimed limitation of the claim. Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

As per claims 7, 16 and 24 : Applicant argues that "citations of Accapadi's reference does not describe the claimed criteria of determining if there are more I/O operations to be performed" The examiner disagree since, in (FIG. 1: 100-160; paragraph 14-17) the user thread 100 entering critical state requiring more I/O operations to be performed; and the kernel process monitoring the running thread determining whether it has completed or more I/O operations are needed to complete the critical section code of the program or to preempt the running thread when a threshold is exceeded. Therefore, these elements of Accapadi's reference meet the claimed limitation of the claim. Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.